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SENATE BILL 361

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO PROPERTY; INCREASING AMOUNTS EXEMPTED; PROVIDING  
FOR TRIENNIAL ADJUSTMENT OF DOLLAR AMOUNTS; AMENDING AND  
ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 42-10-1 NMSA 1978 (being Laws 1971,  
Chapter 215, Section 1, as amended) is amended to read:

"42-10-1. EXEMPTIONS OF MARRIED PERSONS OR HEADS OF  
HOUSEHOLDS. -- Personal property in the amount of [~~five hundred  
dollars (\$500)~~] five thousand dollars (\$5,000), tools of the  
trade in the amount of [~~fifteen hundred dollars (\$1,500)~~] three  
thousand five hundred dollars (\$3,500), one motor vehicle in  
the amount of [~~four thousand dollars (\$4,000)~~] twenty thousand  
dollars (\$20,000), jewelry in the amount of [~~twenty-five  
hundred dollars (\$2,500)~~] five thousand dollars (\$5,000),

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1 clothing, furniture, books, medical-health equipment being used  
2 for the health of the person and not for [~~his~~] the person's  
3 profession and any interest in or proceeds from a pension or  
4 retirement fund of every person supporting another person is  
5 exempt from receivers or trustees in bankruptcy or other  
6 insolvency proceedings, fines, attachment, execution or  
7 foreclosure by a judgment creditor. Property exempted shall be  
8 valued at the market value of used chattels. The dollar  
9 amounts listed in this section are subject to adjustment  
10 pursuant to Section 42-10-14 NMSA 1978. "

11 Section 2. Section 42-10-2 NMSA 1978 (being Laws 1971,  
12 Chapter 215, Section 2, as amended) is amended to read:

13 "42-10-2. EXEMPTIONS OF PERSONS WHO SUPPORT ONLY  
14 THEMSELVES. -- Personal property other than money in the amount  
15 of [~~five hundred dollars (\$500)~~] five thousand dollars  
16 (\$5,000), tools of the trade in the amount of [~~fifteen hundred~~  
17 ~~dollars (\$1,500)~~] three thousand five hundred dollars (\$3,500),  
18 one motor vehicle in the amount of [~~four thousand dollars~~  
19 ~~(\$4,000)~~] twenty thousand dollars (\$20,000), jewelry in the  
20 amount of [~~twenty-five hundred dollars (\$2,500)~~] five thousand  
21 dollars (\$5,000), clothing, furniture, books, medical-health  
22 equipment being used for the health of the person and not for  
23 [~~his~~] the person's profession and any interest in or proceeds  
24 from a pension or retirement fund of every person supporting  
25 only himself is exempt from receivers or trustees in bankruptcy

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1 or other insolvency proceedings, executors or administrators in  
2 probate, fines, attachment, execution or foreclosure by a  
3 judgment creditor. Property exempted shall be valued at the  
4 market value of used chattels. The dollar amounts listed in  
5 this section are subject to adjustment pursuant to Section  
6 42-10-14 NMSA 1978. "

7 Section 3. Section 42-10-9 NMSA 1978 (being Laws 1971,  
8 Chapter 215, Section 6, as amended) is amended to read:

9 "42-10-9. HOMESTEAD EXEMPTION. -- Each person shall have  
10 exempt a homestead in a dwelling house and land occupied by him  
11 or in a dwelling house occupied by him although the dwelling is  
12 on land owned by another, provided that the dwelling is owned,  
13 leased or being purchased by the person claiming the exemption.  
14 Such a person has a homestead of [~~thirty thousand dollars~~  
15 ~~(\$30,000)~~] one hundred thousand dollars (\$100,000) exempt from  
16 attachment, execution or foreclosure by a judgment creditor and  
17 from any proceeding of receivers or trustees in insolvency  
18 proceedings and from executors or administrators in probate.  
19 If the homestead is owned jointly by two persons, each joint  
20 owner is entitled to an exemption of [~~thirty thousand dollars~~  
21 ~~(\$30,000)~~] one hundred thousand dollars (\$100,000). The dollar  
22 amounts listed in this section are subject to adjustment  
23 pursuant to Section 42-10-14 NMSA 1978. "

24 Section 4. Section 42-10-10 NMSA 1978 (being Laws 1971,  
25 Chapter 215, Section 7, as amended by Laws 1979, Chapter 9,

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1 Section 2 and also by Laws 1979, Chapter 182, Section 4) is  
2 amended to read:

3 "42-10-10. EXEMPTION IN LIEU OF HOMESTEAD. --

4 A. Any resident of this state who does not own a  
5 homestead shall in addition to other exemptions hold exempt  
6 real or personal property in the amount of [~~two thousand~~  
7 ~~dollars (\$2,000)~~] fifty thousand dollars (\$50,000) in lieu of  
8 the homestead exemption. This amount is subject to adjustment  
9 pursuant to Section 42-10-14 NMSA 1978.

10 B. Where the resident does not own a homestead, the  
11 sheriff or any other person or officer seeking to attach,  
12 execute or foreclose by judgment on property shall provide the  
13 resident with written notification of the resident's right to  
14 exemption in lieu of homestead as described in Subsection A of  
15 this section, together with a simple form by which the resident  
16 may designate that he is aware of the exemption and does or  
17 does not desire to claim the exemption. Where the resident  
18 refuses to make the election provided for in this section, the  
19 sheriff, other person or officer shall proceed to attach,  
20 execute or foreclose on the resident's property. Where the  
21 resident claims his exemption in lieu of homestead, the  
22 sheriff, other person or officer making attachment, execution  
23 or foreclosure by judgment shall file as part of his return a  
24 description, including the resident's stated value, of the  
25 property claimed as exempt, bearing the resident's signature

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1 witnessed by the sheriff, other person or officer seeking to  
2 attach, execute or foreclose. "

3 Section 5. A new Section 42-10-14 NMSA 1978 is enacted to  
4 read:

5 "42-10-14. [NEW MATERIAL] ADJUSTMENT OF DOLLAR AMOUNTS. --

6 A. On April 1, 2008 and on three-year intervals  
7 thereafter, each dollar amount in effect pursuant to Sections  
8 42-10-1, 42-10-2, 42-10-9 and 42-10-10 NMSA 1978 shall be:

9 (1) adjusted to reflect the change in the  
10 consumer price index for all urban consumers for all items,  
11 published by the United States department of labor, for the  
12 most recent three-year period ending December 31 preceding the  
13 adjustment date; and

14 (2) rounded to the nearest twenty-five dollars  
15 (\$25.00).

16 B. By March 1, 2008 and on three-year intervals  
17 thereafter, the secretary of finance and administration shall  
18 publish each dollar amount that will be in effect on April 1 of  
19 that year pursuant to Sections 42-10-1, 42-10-2, 42-10-9 and  
20 42-10-10 NMSA 1978. "

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